

jm



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,993	11/21/2001	Christian Lindholm	367.40892X00	9524

20457 7590 10/01/2004

ANTONELLI, TERRY, STOUT & KRAUS, LLP  
1300 NORTH SEVENTEENTH STREET  
SUITE 1800  
ARLINGTON, VA 22209-9889

EXAMINER

PHAM, TUAN

ART UNIT PAPER NUMBER

2643

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/988,993

Applicant(s)

LINDHOLM, CHRISTIAN

Examiner

TUAN A PHAM

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/21/01,04/18/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. Claim 6 is unclear because the claim language is indefinite.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey (U.S. Patent No.: 5,956,630) in view of Chiou (U.S. Patent No.: 4,993,065).

**Regarding claim 1**, Mackey teaches an audio accessory including a neck strap (i.e., radio necklace)(see figure 2, radio necklace 10) having an attachment device (i.e., case) for attaching an audio source to the neck strap (see figure 2, case 12, radio receiver 14, col.3, ln.63-67), whereby the audio source may be carried in the neck strap during normal use (see figure 2, col.4, ln.41-47); and

at least one earplug to be connected to the audio source through a set of wires to be connected to the audio source (see figure 2, earphones 20, col.4, ln.41-47).

It should be noticed that Mackey fails to clearly teach the gripping means (i.e., earpiece retainer) for temporary attaching a free end of the earplug wires to the neck strap. However, Chiou teaches such feature (see figure 4, earpiece retainer 13,14, col.3, ln.4-36) for a purpose of holding the earphones.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of the gripping means (i.e., earpiece retainer) for temporary attaching a free end of the earplug wires to the neck strap, as taught by Chiou, into view of Mackey in order to allow for hands-free operation.

**Regarding claim 2**, Chiou further teaches an audio accessory, wherein the accessory includes catching means (i.e., earpiece retainer) connected to the neck strap for catching the free end of the earpiece wire carrying the least one earplug when removed from the ear (see figure 4, earpiece retainer 13,14, col.3, ln.4-36).

**Regarding claim 5**, Chiou further teaches an audio accessory wherein the neck strap comprises gripping means for each of two earplug wires to the neck strap, and catching means connected to the neck strap for catching each free end of the earpiece wire carrying respective earplugs (see figure 4, earpiece retainer 13,14, col.3, ln.4-36).

5. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackey (U.S. Patent No.: 5,956,630) in view of Chiou (U.S. Patent No.: 4,993,065) as applied to claim 1 above, and further in view of Toshihiko (Pub. No.: 10136482).

**Regarding claim 3**, Mackey and Chiou, in combination, fails to clearly teach an audio accessory, wherein the catching means includes at least one permanent magnet. However, Toshihiko teach such features (see Abstract and figure, magnet 3, earphone 1-2) for a purpose of holding the earphones.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of an audio accessory, wherein the catching means includes at least one permanent magnet, as taught by Toshihiko, into view of Mackey and Chiou in order to easily put the earphone and magnet in order.

**Regarding claim 4**, Toshihiko further teaches the at least one magnet mounted on the neck strap is mounted at a distance from the gripping means corresponding to a free end of the earpiece wire from the gripping means (see Abstract and figure, magnet 3, earphone 1-2).

### Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. In order to expedite the prosecution of this application, the applicants are also requested to consider the following references. Although Hill et al. (U.S. Patent No. 6,453,155), Stanford et al. (U.S. Patent No. 5,701,356), Pallat (U.S. Patent No. 5,541,676), and Whitley (U.S. Patent No. 6,728,556) are not applied into this Office Action; they are also called to Applicants attention. They may be used in future Office Action(s). These references are also concerned for supporting the system and method for neck engageable transducer support assembly and attachment device for a mobile phone.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (703) 305-4987. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (703) 305-4708 and

**IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL Customer Service at (703) 306-0377 FOR THE SUBSTITUTIONS OR COPIES.**

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to: (703) 872-9306


Art Unit: 2643

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA, Sixth Floor (Receptionist, tel. No. 703-305-4700).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643  
September 11, 2004  
Examiner

Tuan Pham

  
CURTIS KUNZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600